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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/206,782	12/07/1998	MICHAEL R. PEEVEY	32277.0100	5956

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EXAMINER
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SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/206,782

Applicant(s)

PEEVEY, MICHAEL R.

Examiner

Cristina O Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 21-23, 25, 26, 34 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 21-23, 25, 26, 34 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

1. This communication is in response to Applicant's amendment filed 9 October 2003. Claims 1-9, 21-23, 25-26, 34, and 36 are pending in this case.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-9, 21-23, 25-26, 34, and 36 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kujawa et al (US 5,548,633) in view of Schweickart et al (US 6,252,883B1).
5. Regarding claims 1 and 36 -  
  
Kujawa discloses a method for providing utility consumption data to a utility consumer, the method comprising the steps of receiving metering data from a utility meter located at a remote facility operated by said utility customer, wherein said metering data is electronically transmitted in substantially real time from said utility meter to a data processing system; calculating billing data using said metering data at said data processing system; storing said metering data and said billing data electronically at said data processing system; and reporting said metering data and said billing data electronically from said data processing system to said utility customer, and a system to implement said method (col 1 ln 52-col 2 ln 41).

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6. Regarding claim 2 –

Kujawa discloses the method in accordance with claim 1 wherein said receiving step further comprises the step of polling said meter using an electronic communication medium (col 1 ln 60-65).

7. Regarding claim 3 –

Kujawa discloses the method in accordance with claim 2 wherein said polling step polls said meter using a toll-free telephone line (col 1 ln 60-65). Kujawa does not specify a toll free telephone line. However, official notice is taken that using a toll free telephone line rather than a regular toll line is established and well-known art.

8. Regarding claim 4 –

Kujawa discloses the method in accordance with claim 1 wherein said receiving step receives said metering data automatically transmitted from said meter (col 2 ln 8-34).

9. Regarding claim 5 –

Schweickart discloses the method in accordance with claim 1 wherein said receiving step further comprises the step of receiving operational status of said meter (fig 7).

10. Regarding claim 6 –

Kujawa discloses the method in accordance with claim 1 wherein said receiving step receives metering data from said meter wherein said meter is suitably configured with a modem for connecting to an electronic data line (col 2 ln 20-30).

11. Regarding claim 7 –

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Kujawa discloses the method in accordance with claim 1 wherein said calculating step calculates said billing data using generation, transmission and distribution costs of electricity (col 2 ln 34-42).

12. Regarding claim 8 –

Kujawa discloses the method in accordance with claim 1 wherein said storing step stores said metering data and said billing data in a computer database (col 2 ln 22-34).

13. Regarding claim 9 –

Schweickart discloses the method in accordance with claim 1 wherein said reporting step further comprises the steps of providing a web site on the Internet; retrieving said metering data and said billing data from said database; and presenting said metering data and said billing data on said web site (col 2 ln 12-15).

14. It would be obvious to a practitioner of ordinary skill in the art to combine the teachings of Kujawa and Schweickart in order to obtain a more complete and user-friendly mode of real-time utility monitoring.

15. Claims 21-23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kujawa et al (US 5,548,633) in view of Schweickart et al (US 6,252,883B1).

16. Regarding claim 21 –

Kujawa discloses a method for reducing utility costs at a remote facility associated with an utility consumer, the method comprising the steps of: receiving consumption information at a data processing system in substantially real time from a meter located at said remote facility; receiving price factors at said data processing system; calculating

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utility cost at said data processing system as a function of said consumption information and of said price factors; and providing said utility cost from said data processing system to said utility consumer such that said utility consumer is allowed to thereby manage said utility cost for said remote facility (col 1 ln 52-col 2 ln 41).

17. Regarding claim 22 –

Kujawa discloses the method of claim 21 wherein said pricing options comprise a plurality of pricing factors, each of said plurality of pricing factors affecting a portion of said utility cost (col 1 ln 52-col 2 ln 41).

18. Regarding claim 23 –

Kujawa discloses the method of claim 22 wherein said plurality of pricing factors comprises generation costs (col 1 ln 52-col 2 ln 41).

19. Regarding claim 25 –

Kujawa discloses the method of claim 22 further comprising the step of providing billing information to said utility consumer from said data processing system (col 7 ln 54-67).

20. Regarding claim 26 –

Schweickart discloses the method of claim 25 further comprising the step of receiving payment information from said utility customer at said data processing system (col 6 ln 57-62).

21. It would be obvious to a practitioner of ordinary skill in the art to combine the teachings of Kujawa and Schweickart in order to obtain a more complete and user-friendly mode of real-time utility monitoring.

***Claim Rejections - 35 USC § 102***

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22. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

23. Claim 27 is rejected under 35 U.S.C. 102(e) as being anticipated by Kujawa et al (US 5,548,633).

24. Regarding claim 27 –

Kujawa discloses a data processing system for managing energy consumption at a facility affiliated with an energy consumer, the system being coupled to a communications medium, wherein said data processing system is configured to receive metering information via said digital network from a meter located at said facility, to determine utility cost as a function of said metering information, and to transmit said utility cost to said energy consumer via said communications medium such that said utility cost to said utility consumer thereby manages said utility cost for said facility (col 1 ln 52-col 2 ln 41).

25. Claim 34 is rejected under 35 U.S.C. 102(e) as being anticipated by Kujawa et al (US 5,548,633).

26. Regarding claim 34 –

Kujawa discloses a system for providing energy consumption data for a facility affiliated with an energy consumer, the system comprising: a receiving means configured to

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receive metering data in substantially real time from a meter located at said facility via a digital network; a processing means in communication with said receiving means, wherein said processing means is configured to determine pricing options as a function of said metering information and of pricing factors affiliated with an energy source; a transmitting means configured to transmit said pricing options to said energy consumer via said digital network such that said energy consumer is allowed to evaluate said pricing options to thereby manage energy consumption at said facility (col 1 ln 52-col 2 ln 41).

27. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

29. James (US 4,700,188) discloses an electric power measurement and hall effect based electric power meter for use therein.



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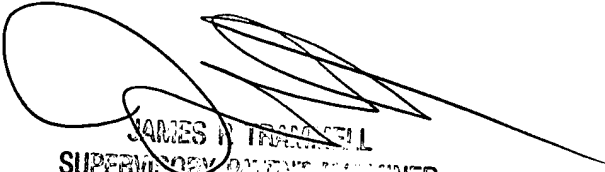
30. Merriam et al (US 5,311,581A) discloses a remote meter reading method and apparatus.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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